

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10507 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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DEVIPRASAD RAMSUNDER PANDEY

Versus

SPECIAL SECRETARY (APPEALS)

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Appearance:

MS KJ BRAHMBHATT with MS VP SHAH for Petitioner  
MR SP DAVE, AGP for Respondent No.1,2 & 3  
MR VH DESAI for Respondent No. 4 & 5

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CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 21/01/97

ORAL JUDGEMENT

The present petition arising under Article 226 of the Constitution of India, requires a complete recognition.

The petitioner happens to be one D.R.Pandey, a

resident of village Surali, under the Bardoli Taluka of Surat District. The case put forth by the petitioner is that, he hails from a rural area under District Allahabad under the UP State and that his family had come down to Gujarat and had settled at the above said place for the purpose of working as agricultural labourers. They were doing this work jointly with the owners of two pieces of land bearing Block Nos. 653 and 472 and the occupants of the above said two pieces of land had preferred to sell the said lands to the petitioner, by registered sale deed dated March 1, 1985. This transaction came to be reflected in the revenue record by Mutation Entry No. 2235 which was posted in the revenue record on October 31, 1985 and later on, came to be certified on January 10, 1986. After the petitioner had worked hard and had invested a pretty handsome amount, after about eight years, the Deputy Collector, Surat—the respondent no. 2 herein, had taken in suo motu revision, the said Mutation Entry No. 2235 by issuing show cause notice dated July 5, 1993. Under the orders dated September 30, 1993, the respondent no. 2 had ordered the cancellation of the above said entry holding that the petitioner was a non-agriculturist and that he could not have purchased the agricultural lands without having obtained the prior permission of the competent authority. He also directed the Mamatdar concerned to initiate proceedings under Section 84C of the Bombay Tenancy and Agricultural Lands Act, 1948. Later on, these orders were carried in the revision before the respondent no. 3 and ultimately, the unnumbered proceedings were finalised and under the orders dated November 25, 1993, the Mamatdar and ALT, Bardoli had declared that the Mutation Entry was in accordance with law. The said judgment and order came to be carried before the Deputy Collector, Land Reforms. The Deputy Collector, under the orders dated August 30, 1994, allowed the revision application of the State and remanded the case to the Mamatdar for taking the proceedings under Section 84C(3) of the Act of 1948. The said orders came to be challenged before the Gujarat Revenue Tribunal, but unsuccessfully. The above said orders are in challenge in the present petition before me.

Learned Counsel Ms. V.P. Shah, who appears for learned Counsel Ms. K.J. Brahmbhatt for the petitioner placing reliance upon an unreported decision of the Apex Court in Civil Appellate Jurisdiction in Civil Appeal No. 5023 of 1985 decided on August 22, 1996, urges that, Section 84C of the Act of 1948 could not have been resorted to, after such a long period. The pronouncement in question rendered by the Supreme Court has taken into

consideration the delay of about six years in passing the revisional orders. It has been said that, if after such a delay, the sale deeds are declared to be invalid, the appellant is likely to suffer irreparable injury because, he has made investment after the above said purchase in this connection. The reference is also made to the decision rendered by this Court in Special Writ Application No. 2770 of 1979 decided on March 1, 1990 where in connection with Section 84C of the Act of 1948, it has been said that the power under the aforesaid Section should be exercised within a reasonable time. Ultimately, in the view of the Apex Court, the above said period of six years came to be recognised as not a reasonable period. The orders which were sought to be impugned before the Apex Court came to be set aside.

Here, the facts are gross inasmuch as there has been an inordinate delay and that ultimately while taking the entry posted in revenue records, the issuance of the proceedings under Section 84C of the Act of 1948 has been ordered. Following the Supreme Court pronouncement referred to above, it appears that the present petition requires to be granted. The same is hereby accordingly granted. The impugned orders are hereby quashed and set aside. Rule is made absolute accordingly.

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